

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

PETER MILLER, CLIFFORD HOYT,
and CAMBRIDGE RESEARCH AND
INSTRUMENTATION, INC.

Plaintiffs,

V.

PATRICK TREADO and CHEMIMAGE CORP.

Defendants.

Case No. 05-10367 RWZ

**DEFENDANTS' MOTION TO DISMISS COUNTS 2-5, AND TO STAY
COUNT 1 PENDING COMPLETION OF REISSUE PROCEEDINGS BEFORE
THE U.S. PATENT AND TRADEMARK OFFICE**

Defendants Patrick Treado and ChemImage Corporation (collectively “Defendants”)
hereby move to dismiss Counts 2-5 of the Complaint for lack of subject matter jurisdiction.
Defendants also respectfully request that the Court stay litigation over the remaining Count 1
pending completion of the reissue proceedings now before the U.S. Patent and Trademark Office
involving the patent in suit.

In support of this motion, Defendants submit the accompanying memorandum.

Respectfully submitted,

Date: April 29, 2005

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LOCAL RULE 7.1 CERTIFICATION

Pursuant to Local Rule 7.1, counsel for Defendants certifies that he endeavored to confer with counsel for Plaintiffs in a good faith attempt to resolve or narrow the issue presented in this motion, by leaving a detailed voicemail concerning the motion for Plaintiffs' counsel. Counsel for Defendants did not receive a return call before the deadline for filing this motion.

/s/ Anthony J. Fitzpatrick
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